

104TH CONGRESS  
2D SESSION

# S. 1909

To require the offer in every defined benefit plan of a joint and two-thirds survivor annuity option and to require comparative disclosure of all benefit options to both spouses.

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IN THE SENATE OF THE UNITED STATES

JUNE 26, 1996

Mrs. BOXER introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To require the offer in every defined benefit plan of a joint and two-thirds survivor annuity option and to require comparative disclosure of all benefit options to both spouses.

1       *Be it enacted by the Senate and House of Representa-*

2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Pension Benefits Fair-

5       ness Act”.

6       **SEC. 2. MODIFICATIONS OF JOINT AND SURVIVOR ANNUITY**

7                   **REQUIREMENTS.**

8       (a) AMENDMENTS TO ERISA.—

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## 1                   (1) AMOUNT OF ANNUITY.—

2                   (A) IN GENERAL.—Paragraph (1) of sec-  
3                   tion 205(a) of the Employee Retirement Income  
4                   Security Act of 1974 (29 U.S.C. 1055(a)) is  
5                   amended by inserting “or, at the election of the  
6                   participant, shall be provided in the form of a  
7                   qualified joint and two-thirds survivor annuity”  
8                   after “survivor annuity.”.

9                   (B) DEFINITION.—Subsection (d) of sec-  
10                  tion 205 of such Act (29 U.S.C. 1055) is  
11                  amended—

12                  (i) by redesignating paragraphs (1)  
13                  and (2) as subparagraphs (A) and (B), re-  
14                  spectively,

15                  (ii) by inserting “(1)” after “(d)”,  
16                  and

17                  (iii) by adding at the end the follow-  
18                  ing new paragraph:

19                  “(2) For purposes of this section, the term “qualified  
20                  joint and two-thirds survivor annuity” means an annu-  
21                  ity—

22                  “(A) for the participant while both the partici-  
23                  pant and the spouse are alive with a survivor annu-  
24                  ity for the life of the surviving individual (either the  
25                  participant or the spouse) equal to 66 $\frac{2}{3}$  percent of

1       the amount of the annuity which is payable to the  
2       participant while both the participant and the  
3       spouse are alive,

4           “(B) which is the actuarial equivalent of a sin-  
5       gle annuity for the life of the participant, and

6           “(C) which, for all other purposes of this Act,  
7       is treated as a qualified joint and survivor annuity.”.

8           (2) ILLUSTRATION REQUIREMENT.—Clause (i)  
9       of section 205(c)(3)(A) of such Act (29 U.S.C.  
10      1055(c)(3)(A)) is amended to read as follows:

11           “(i) the terms and conditions of each qualified  
12       joint and survivor annuity and qualified joint and  
13       two-thirds survivor annuity offered, accompanied by  
14       an illustration of the benefits under each such annu-  
15       ity for the particular participant and spouse and an  
16       acknowledgement form to be signed by the partici-  
17       pant and the spouse that they have read and consid-  
18       ered the illustration before any form of retirement  
19       benefit is chosen.”.

20           (b) AMENDMENTS TO INTERNAL REVENUE CODE.—

21           (1) AMOUNT OF ANNUITY.—

22           (A) IN GENERAL.—Clause (i) of section  
23       401(a)(11)(A) of the Internal Revenue Code of  
24       1986 (relating to requirement of joint and sur-  
25       vivor annuity and preretirement survivor annu-

1                 ity) is amended by inserting “or, at the election  
2                 of the participant, shall be provided in the form  
3                 of a qualified joint and two-thirds survivor an-  
4                 nuity” after “survivor annuity.”.

5                 (B) DEFINITION.—Section 417 of such  
6                 Code (relating to definitions and special rules  
7                 for purposes of minimum survivor annuity re-  
8                 quirements) is amended by redesignating sub-  
9                 section (f) as subsection (g) and by inserting  
10                 after subsection (e) the following new sub-  
11                 section:

12                 “(f) DEFINITION OF QUALIFIED JOINT AND TWO-  
13                 THIRDS SURVIVOR ANNUITY.—For purposes of this sec-  
14                 tion and section 401(a)(11), the term “qualified joint and  
15                 two-thirds survivor annuity” means an annuity—

16                 “(1) for the participant while both the partici-  
17                 pant and the spouse are alive with a survivor annu-  
18                 ity for the life of the surviving individual (either the  
19                 participant or the spouse) equal to 66 $\frac{2}{3}$  percent of  
20                 the amount of the annuity which is payable to the  
21                 participant while both the participant and the  
22                 spouse are alive,

23                 “(2) which is the actuarial equivalent of a sin-  
24                 gle annuity for the life of the participant, and

1               “(3) which, for all other purposes of this title,  
2       is treated as a qualified joint and survivor annuity.”.

3               (2) ILLUSTRATION REQUIREMENT.—Clause (i)  
4       of section 417(a)(3)(A) of such Code (relating to ex-  
5       planation of joint and survivor annuity) is amended  
6       to read as follows:

7               “(i) the terms and conditions of each  
8       qualified joint and survivor annuity and  
9       qualified joint and two-thirds survivor an-  
10      nuity offered, accompanied by an illustra-  
11      tion of the benefits under each such annu-  
12      ity for the particular participant and  
13      spouse and an acknowledgement form to  
14      be signed by the participant and the  
15      spouse that they have read and considered  
16      the illustration before any form of retire-  
17      ment benefit is chosen.”.

18               (c) EFFECTIVE DATES.—

19               (1) IN GENERAL.—The amendments made by  
20       this section shall apply to plan years beginning after  
21       December 31, 1996.

22               (2) SPECIAL RULE FOR COLLECTIVELY BAR-  
23      GAINED PLANS.—In the case of a plan maintained  
24      pursuant to one or more collective bargaining agree-  
25      ments between employee representatives and one or

1 more employers ratified on or before the date of the  
2 enactment of this Act, the amendments made by this  
3 section shall apply to the first plan year beginning  
4 on or after the earlier of—

- 5                 (A) the later of—  
6                         (i) January 1, 1997, or  
7                         (ii) the date on which the last of such  
8                         collective bargaining agreements termi-  
9                         nates (determined without regard to any  
10                         extension thereof after the date of the en-  
11                         actment of this Act), or  
12                 (B) January 1, 1998.

13                 (3) PLAN AMENDMENTS.—If any amendment  
14                 made by this section requires an amendment to any  
15                 plan, such plan amendment shall not be required to  
16                 be made before the first plan year beginning on or  
17                 after January 1, 1998, if—

- 18                         (A) during the period after such amend-  
19                         ment made by this section takes effect and be-  
20                         fore such first plan year, the plan is operated  
21                         in accordance with the requirements of such  
22                         amendment made by this section, and  
23                         (B) such plan amendment applies retro-  
24                         actively to the period after such amendment

1           made by this section takes effect and such first  
2           plan year.

3           A plan shall not be treated as failing to provide defi-  
4           nitely determinable benefits or contributions, or to  
5           be operated in accordance with the provisions of the  
6           plan, merely because it operates in accordance with  
7           this paragraph.

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